



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

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| Date Amended | 05/26/06 | Bill No: | AB 2591 |
| Tax: | Sales and Use Special Taxes Property Tax | Author: | Keene |
| Related Bills: | | | |

BILL SUMMARY

Among other things, this bill would require all state agencies, including the Board of Equalization, to prepare annual reports detailing accounts receivable that are unpaid for 180 or more days and efforts to collect these accounts. This analysis is limited to the effect on the Board's reporting requirements.

Summary of Amendments

Since the previous analysis, this bill was amended and now provides additional time for submitting the annual report, an inoperative date of July 1, 2010, and a sunset date of January 1, 2011.

ANALYSIS

Current Law

Currently, the Board is authorized to use various collection actions to effect the collection of delinquent taxes, including but not limited to: bank levies, wage garnishments, tax liens, seizure of assets, offsets, and court actions. The Board uses these tools consistent with its established policies and procedures.

Existing law, Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code, known as the Accounts Receivable Management Act, authorizes each state agency to sell part or all of its accounts receivable to private debt collectors under specified conditions. Each state agency is also required to consult with the Franchise Tax Board or other state agencies which have established an effective accounts receivable collection system.

Additionally, Chapter 3 (commencing with 13940) of Part 4 of Division 3 of Title 2 of the Government Code allows the Board to make an application for discharge from accountability (discharge) to relieve the agency of the responsibility for collection, thereby removing the item from the accounts receivable.

Proposed Law

This bill would add section 13292.5 to the Government Code to require each state agency to submit an annual report to the Department of Finance (DOF) detailing the

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status of the agency's liquidated and delinquent accounts, as defined, and efforts to collect these accounts during the previous fiscal year.

The report would include a summary of the total of all of the following:

- Total number and aggregate dollar amount of liquidated and delinquent accounts.
- Liquidated and delinquent accounts, by total number and aggregate dollar amount, that were not included in the annual report for the immediately preceding fiscal year.
- Beginning balance and ending balance of each liquidated and delinquent account.
- Aggregate dollar amount of moneys paid on liquidated and delinquent accounts.
- Total amount and total number of liquidated and delinquent accounts that have been discharged from accountability.
- Total dollar amount of liquidated and delinquent accounts turned over to private collection agencies and total amount collected by those agencies for the fiscal year that is the subject of the report.
- A listing of the liquidated and delinquent accounts by specified time periods, which, at a minimum, shall identify the total number and aggregate dollar amount of liquidated and delinquent accounts that are unpaid for 180 or more days after the obligation was first due.

Background

Due to its effective tax administration, the Legislature and other state agencies who have contracted with the Board have given the Board the responsibility for administering various taxes and fees. Currently, the Board administers over 20 different tax and fee (tax) programs. As indicated in the Board's 2003-04 Annual Report, those programs generated \$44.46 billion in revenue at a cost of \$205.22 million – only 72 cents for every \$100 of revenue collected.

Despite the best of efforts, certain tax debts are not readily collectable. After a liability has become due and payable, a taxpayer may avail themselves of several alternatives that could result in the aging of the receivable. For example, taxpayers may enter into installment payment agreements with the Board. Some of these payment plans are short-term (under twelve months), others are long-term, and the result is a cooperative resolution of the receivable. Other taxpayers may file a bankruptcy petition which imposes an automatic stay of collection actions. Still others file a "late protest," which is an administrative process that allows a taxpayer to file a late appeal which may result in the deferral of collection actions.

In general, collection of accounts receivable progress through various automated and manual collection processes. After collection efforts have been exhausted and it is determined that it is no longer cost effective to pursue collection of an outstanding liability, a discharge recommendation is initiated as provided in the Government Code and further specified in the State Administrative Manual section 8776.6. Requests for discharge from accountability are submitted to the State Controller's Office (SCO) for review, and those accounts with balances over \$5,000 may be reviewed by the Attorney General's office.

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COMMENTS

1. **Sponsor and Purpose.** The sponsor of the bill is the California Association of Collectors. The purpose is to provide the Legislature with information on the total amount of money owed to the State that has not been collected in the previous fiscal year. According to the author's office, the information in the report would allow the Legislature to consider how to better manage and collect the debt.
2. **The May 26, 2006 amendments** specify that each state agency is to submit a report to the DOF no later than October 31 of each year, until July 1, 2010. The DOF would then be required to submit a report to the Legislature by February 28 of each year, until July 1, 2010, based on the state agency reports. The statute is inoperative as of July 1, 2010, and is repealed as of January 1, 2011. **The April 26, 2006** amendments added a coauthor.
3. **Current Board procedures are adequate.** The Board's various tax and fee sections utilize similar collection policies and procedures in collecting and discharging accounts.

As previously explained, the Board submits requests for discharge to the SCO for further review and final approval. The Attorney General's office may also review certain accounts. After the item is approved for discharge, it is removed from the Board's active accounts receivable work list. The current internal and external review for discharging a receivable from accountability provides sufficient oversight.

4. **Should the Board be required to report?** The Board has an exemplary debt collection history, and requiring the Board to annually list accounts receivable that are over 180 days past due or that have been discharged from accountability may not be necessary. The Legislature and other state agencies that have contracted with the Board continue to receive effective collection services. Additionally, the SCO and the Attorney General's office ensure that the Board is not remiss in collecting debts owed to the state.
5. **Efforts made by the agency to collect these accounts.** The bill requires the agencies to report the efforts made to collect the delinquent accounts but does not specify the detail needed to comply with this requirement. If the description of efforts to collect is general in nature then there would be absorbable costs to prepare an annual report. However, if the description must be detailed – an account by account listing of collection efforts – then implementation costs could be substantial.
6. **What fiscal years are to be included in the Board's report?** If the bill becomes law, the first fiscal year included in the report would be the 2006-07 and would be due to the DOF no later than October 31, 2007. As for the final report, it is unclear whether the fiscal year 2009-10 is intended to be the final fiscal year of the report, since the bill becomes inoperative on July 1, 2010, a day after the end of that fiscal year. It would appear that the Board would not be required to submit a report to the DOF by October 31, 2010, since the statute would be inoperative. The author may wish to clarify which fiscal year will be in the final report by either changing the inoperative date to November 1, 2010, or specifying the final fiscal year.

COST ESTIMATE

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The Board's cost to prepare annual aged accounts receivable reports would be dependent on the amount of detail required by the DOF to report on the efforts to collect liquidated and delinquent accounts.

REVENUE ESTIMATE

This bill would not affect the revenues collected for the state by the Board.

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| Analysis prepared by: | John Cortez | 445-6662 | 06/19/06 |
| Contact: | Margaret S. Shedd | 322-2376 | |

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